

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA)
)
 v.) Docket No. 5:22-cr-00457-XR
)
 (1) MARIO ALBERTO GUERRA,) San Antonio, Texas
 (2) GABRIEL GUERRA,) September 30, 2022
)
 Defendants.)
 _____)

TRANSCRIPT OF ARRAIGNMENT AND DETENTION HEARING
BEFORE THE HONORABLE ELIZABETH S. CHESTNEY
UNITED STATES MAGISTRATE JUDGE

A P P E A R A N C E S:

FOR THE GOVERNMENT:
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COURT RECORDER: FTR Gold

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Arraignment and Detention Hearing - September 30, 2022

1 (10:28 a.m.)

2 THE COURT: You may be seated.

3 THE CLERK: United States of America v. Mario Alberto
4 Guerra and Gabriel Guerra, SA:22-CR-457.

5 THE COURT: Good morning. I'll have appearances,
6 please.

7 MS. GARCIA: Priscilla Garcia for the United States.

8 MR. CASTRO: Christopher Castro for Gabriel Guerra and
9 subbing in for Paul Goeke on Paul Guerra.

10 THE COURT: Okay. Good morning. You can sit down.

11 MR. CASTRO: Good morning.

12 THE COURT: And it's my understanding that your
13 co-counsel or defendant's counsel was in a car accident last
14 night?

15 MR. CASTRO: That is correct, Judge.

16 THE COURT: And you've spoken to both defendants, and
17 they agree to have you proceed today with the hearing?

18 MR. CASTRO: That is correct, Judge.

19 THE COURT: All right. And are we proceeding on the
20 arraignments and detention hearing today? Yes?

21 MR. CASTRO: We can -- we can waive arraignment,
22 Judge.

23 THE COURT: Well, it's okay. We don't have it in
24 writing and kind of got to do it anyway.

25 Ms. Garcia, I'm going to remind you of your disclosure

Arraignment and Detention Hearing - September 30, 2022

1 obligations under *Brady v. Maryland* and the consequences of
2 what can happen if the government doesn't comply with those
3 obligations. There can be many consequences, including being
4 held in contempt of court, having evidence suppressed, having
5 the case be delayed or even dismissed.

6 I'm going to go ahead and ask my deputy to put the two
7 defendants under oath.

8 THE CLERK: Y'all can remain seated and raise your
9 right hand, please.

10 (*The oath was administered*)

11 THE COURT: All right. And do you have any doubt as
12 to either of the gentlemen's competency today?

13 MR. CASTRO: No, Your Honor.

14 THE COURT: Okay. Then let's see -- Mario Guerra?

15 DEFENDANT MARIO GUERRA: Yes, ma'am.

16 THE COURT: That's you. Okay. Mario Guerra -- I
17 don't normally call defendants by their first names, but
18 because you have the same last name, is it okay if I call you
19 "Mario"?

20 DEFENDANT MARIO GUERRA: Yes, ma'am.

21 THE COURT: Okay. Have you received a copy -- well,
22 first of all, is there anything interfering with your ability
23 to understand me today?

24 DEFENDANT MARIO GUERRA: No, ma'am.

25 THE COURT: All right. And have you received a copy

Arraignment and Detention Hearing - September 30, 2022

1 of the indictment that was filed in your case?

2 DEFENDANT MARIO GUERRA: Yes, ma'am.

3 THE COURT: Okay. You have -- I can read the
4 indictment to you again or you can waive me doing that, meaning
5 you can say, "That's okay. I've already read it."

6 DEFENDANT MARIO GUERRA: I can waive it.

7 THE COURT: Okay. And would you like to enter a plea
8 on behalf of this client?

9 MR. CASTRO: Yes, Judge. Not guilty.

10 THE COURT: Okay. A plea of not guilty will be
11 entered, and the case will be forwarded on to the district
12 court after the detention hearing.

13 All right. Mr. Gabriel Guerra, anything interfering with
14 your ability to understand me today?

15 DEFENDANT GABRIEL GUERRA: No, ma'am.

16 THE COURT: All right. And did you receive a copy of
17 the indictment?

18 DEFENDANT GABRIEL GUERRA: Yes, ma'am.

19 THE COURT: Do you also waive my reading it to you
20 again?

21 DEFENDANT GABRIEL GUERRA: Yes, ma'am.

22 THE COURT: Okay. And would you like to enter a plea
23 on behalf of this client?

24 MR. CASTRO: Not guilty, Your Honor.

25 THE COURT: Okay. A plea of not guilty will be

Arraignment and Detention Hearing - September 30, 2022

1 entered in this case as well, and it will also be forwarded on
2 to the district court.

3 All right. At this time I will take judicial notice of the
4 indictments. And we also have the pretrial services reports.

5 And I'll start by asking the government, do you have any
6 objections, clarifications or corrections to the pretrial
7 services report?

8 MS. GARCIA: The government does not, Your Honor.

9 THE COURT: Okay. And does defense counsel have any?

10 MR. CASTRO: No objections, Judge.

11 THE COURT: Okay. All right. And I also have an
12 exhibit that was handed to me before the hearing. It's a
13 report of investigation. Did you provide a copy of this to
14 defense counsel?

15 MS. GARCIA: I did, Your Honor.

16 THE COURT: So it's Exhibit -- and they are both
17 marked Exhibit 1. It's Exhibit 1 in each case, I assume?

18 MS. GARCIA: Your Honor, as to one with -- there's no
19 signatures at the bottom, it's an ongoing investigation, so I
20 excised the name of the person on the very top --

21 THE COURT: I see.

22 MS. GARCIA: -- but wanted to let the Court know
23 that --

24 THE COURT: I see.

25 MS. GARCIA: -- it has the original and the copy

Arraignment and Detention Hearing - September 30, 2022

1 tendered.

2 THE COURT: All right. So one's the redacted copy and
3 one's the non-redacted copy?

4 MS. GARCIA: Yes, Your Honor.

5 THE COURT: All right. And this exhibit contains the
6 results of a consent search of the residence of Mario Guerra
7 and the business; is that correct?

8 MS. GARCIA: That's correct, Your Honor.

9 THE COURT: All right. Okay. Ms. Garcia, the floor
10 is yours.

11 MS. GARCIA: Your Honor, the government's relying on
12 Government's Exhibit 1 to show the Court the facts of this
13 case, what these individuals were involved in. The entire
14 Guerra family was living at this one address. And all the
15 weapons listed were seized from that residence, with the
16 exception of the one found on Mr. Guerra, at his place of
17 business, and another weapon in one of the -- in Gabriel's car
18 and another one on the premises.

19 But if you examine it, Your Honor, there's -- like his
20 manufacturing of adapters to convert weapons to machine guns.
21 And that's what they were engaged in. And the government's
22 position is this type of conduct is an extreme danger to the
23 community. And, therefore, we're asking that they be detained.

24 THE COURT: So this -- yes, the evidence reveals, it
25 looks like -- I mean, it goes on for pages -- but over 120

Arraignment and Detention Hearing - September 30, 2022

1 different firearms, firearm conversion kits and ammunition that
2 were found. And this is -- this was at the residence where
3 both of the defendants live?

4 MS. GARCIA: Yes, Your Honor.

5 THE COURT: Okay. So that's the government's proffer.
6 And --

7 MS. GARCIA: And the agent is present, Your Honor, in
8 case there should be any questions.

9 THE COURT: Okay. This is the agent involved in --
10 you're the case agent?

11 UNIDENTIFIED SPEAKER: Yes, ma'am.

12 THE COURT: Okay. Would you like to call the case
13 agent?

14 MR. CASTRO: Not at this time, Your Honor.

15 THE COURT: Okay. All right. Are you going to be
16 proffering any evidence on the matter of detention?

17 MR. CASTRO: No, Your Honor. Just to rebuttal what
18 the government said, most of these weapons and firearms were
19 registered or a bill of sale is accompanied with them. So --

20 THE COURT: Sorry. I didn't hear what you said.

21 MR. CASTRO: Sorry. Most of the guns and weapons that
22 were seized are registered, and there are bill of sales for
23 those that were not.

24 THE COURT: Okay. All right. I will go ahead and
25 hear argument then on the matter of detention.

Arraignment and Detention Hearing - September 30, 2022

1 MS. GARCIA: Other than what was stated during my
2 presentation, Your Honor, it's the nature of these weapons, why
3 were they created, why -- what are they doing with them? The
4 government believes they're a danger to the community --

5 THE COURT: Okay. So --

6 MS. GARCIA: -- and should not be released on bond.

7 THE COURT: All right. And I'll hear your response.

8 MR. CASTRO: Judge, defendants have no argument to
9 forfeiting all conversion kits and firearms. They ask that
10 they be allowed to be released on bond so that they can
11 continue to work.

12 Mr. Guerra does support his wife who does suffer from a
13 brain injury, and Gabriel Guerra, sorry, does have a newborn
14 child that he helps take care of. And they have substantial
15 ties to the community. Mr. Guerra runs his business, and
16 Gabriel, again, does have a new child that he needs to support.

17 THE COURT: Okay. And, Ms. Garcia, what is "shock
18 probation"?

19 MS. GARCIA: In the state system they would go to
20 the -- to the penitentiary for a very short period and then
21 come back, and then they're placed on deferred or a probation
22 period. It's just a taste of prison and back.

23 THE COURT: Okay. Interesting.

24 All right. Well, this is a case where what is most
25 concerning to the Court, as emphasized by the government, is

Arraignment and Detention Hearing - September 30, 2022

1 the circumstances of the offense. This is not just a typical
2 case involving possession of a firearm. The sheer quantity and
3 number of firearms, the fact that there is evidence of sort of
4 all of these kits being possessed and that are capable of
5 turning firearms into machine guns, combined with the charged
6 offenses, I do find that the government has met its burden to
7 prove dangerousness in this case. And the defendants will be
8 ordered detained.

9 Thank you. We're in recess.

10 * * *

11 (10:36 a.m.)
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Arraignment and Detention Hearing - September 30, 2022

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I, court approved transcriber, certify that the foregoing
is a correct transcript from the electronic sound recording of
the proceedings in the above-entitled matter.

Date: 10/21/2022 /s/ Chris Poage
Approved Transcriber